

BEFORE THE
STATE BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 2006-121

SUSANNE WILCH KROUT, AKA
SUSANNE WILCH ANDERSON
240 Calle Del Sol
Nipomo, CA 93444
Optometrist License No. 06613

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the State Board of Optometry, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on October 12, 2011.

It is so ORDERED September 12, 2011



FOR THE STATE BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
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2 MARC D. GREENBAUM
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8 **BEFORE THE**
STATE BOARD OF OPTOMETRY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

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12 SUSANNE WILCH KROUT, AKA
SUSANNE WILCH ANDERSON
13 240 Calle Del Sol
Nipomo, CA 93444
14 Optometrist License No. 06613

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.
16

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Mona Maggio (Complainant) is the Executive Officer of the State Board of
21 Optometry. She brought this action solely in her official capacity and is represented in this matter
22 by Kamala D. Harris, Attorney General of the State of California, by Shawn P. Cook, Deputy
23 Attorney General.

24 2. Respondent Susanne Wilch Krout, aka Susanne Wilch Anderson (Respondent) is
25 represented in this proceeding by attorney Michael Krout, Esq., whose address is: P.O. Box 1028
26 San Luis Obispo, CA 93406

27 3. On or about September 5, 1979, the State Board of Optometry issued Optometrist
28 License No. 06613 to Susanne Wilch Krout, aka Susanne Wilch Anderson (Respondent). The

1 Optometrist License was in full force and effect at all times relevant to the charges brought in
2 Accusation No. 2006-121 and will expire on September 30, 2011, unless renewed.

3 JURISDICTION

4 4. Accusation No. 2006-121 was filed before the State Board of Optometry (Board),
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
6 and all other statutorily required documents were properly served on Respondent on November
7 18, 2010. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of
8 Accusation No. 2006-121 is attached as exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, fully discussed with counsel, and understands the
11 charges and allegations in Accusation No. 2006-121. Respondent has also carefully read, fully
12 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
13 Order.

14 6. Respondent is fully aware of her legal rights in this matter, including the right to a
15 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
16 her own expense; the right to confront and cross-examine the witnesses against her; the right to
17 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
18 compel the attendance of witnesses and the production of documents; the right to reconsideration
19 and court review of an adverse decision; and all other rights accorded by the California
20 Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23 CULPABILITY

24 8. Respondent admits the truth of each and every charge and allegation in Accusation
25 No. 2006-121.

26 9. Respondent agrees that her Optometrist License is subject to discipline and she agrees
27 to be bound by the State Board of Optometry (Board)'s probationary terms as set forth in the
28 Disciplinary Order below.

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1 14. In consideration of the foregoing admissions and stipulations, the parties agree that
2 the Board may, without further notice or formal proceeding, issue and enter the following
3 Disciplinary Order:

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Optometrist License No. 06613 issued to Respondent
6 Susanne Wilch Krout, aka Susanne Wilch Anderson (Respondent) is revoked. However, the
7 revocation is stayed and Respondent is placed on probation for five (5) years on the following
8 terms and conditions.

9 1. **OBEY ALL LAWS.** Respondent shall obey all federal, state and local laws, and all
10 rules governing the practice of optometry in California. Respondent shall notify the Board in
11 writing within three days of any incident resulting in her arrest, or charges filed against, or a
12 citation issued against, Respondent

13 2. **QUARTERLY REPORTS.** Respondent shall file quarterly reports of compliance
14 under penalty of perjury, on forms to be provided, to the probation monitor assigned by the
15 Board. Omission or falsification in any manner of any information on these reports shall
16 constitute a violation of probation and shall result in the filing of an accusation and/or a petition
17 to revoke probation against Respondent's optometrist license. Quarterly report forms will be
18 provided by the Board. Respondent is responsible for contacting the Board to obtain additional
19 forms if needed. Quarterly reports are due for each year of probation and the entire length of
20 probation as follows:

21 • For the period covering January 1st through March 31st, reports are to be completed
22 and submitted between April 1st and April 7th.

23 • For the period covering April 1st through June 30th, reports are to be completed and
24 submitted between July 1st and July 7th.

25 • For the period covering July 1st through September 30th, reports are to be completed
26 and submitted between October 1st and October 7th.

27 • For the period covering October 1st through December 31st, reports are to be
28 completed and submitted between January 1st and January 7th.

1 Failure to submit complete and timely reports shall constitute a violation of probation.

2 3. COOPERATE WITH PROBATION MONITORING PROGRAM . Respondent
3 shall comply with requirements of the Board appointed probation monitoring program, and shall,
4 upon reasonable request, report to or appear to a venue as directed.

5 Respondent shall claim all certified mail issued by the Board, respond to all notices of
6 reasonable requests timely, and submit Reports, Identification Update Reports or other reports
7 similar in nature, as requested and directed by the Board or its representative.

8 Respondent shall provide to the Board the names, physical addresses, mailing addresses,
9 telephone numbers, and e-mail addresses of all employers, supervisors, managers, and contractors
10 and shall give specific, written consent that the Respondent authorizes the Board and its
11 representatives and the employers, supervisors, managers, and contractors to communicate
12 regarding the Respondent's work status, performance, and monitoring. Monitoring includes, but
13 is not limited to, any violation of any probationary term and condition.

14 Respondent is encouraged to contact the Board's Probation Program at any time she has a
15 question or concern regarding her terms and conditions of probation.

16 Failure to appear for any scheduled meeting or examination, or cooperate with the
17 requirements of the program, including timely submission of requested information, shall
18 constitute a violation of probation and will result in the filing of an accusation and/or a petition to
19 revoke probation against Respondent's Optometrist license.

20 4. PROBATION MONITORING COSTS.

21 All costs incurred for probation monitoring during the entire probation shall be paid by the
22 Respondent. The monthly cost may be adjusted as expenses are reduced or increased.
23 Respondent's failure to comply with all terms and conditions may also cause this amount to be
24 increased.

25 All payments for costs are to be sent directly to the Board of Optometry and must be
26 received by the date(s) specified. (Periods of tolling will not toll the probation monitoring costs
27 incurred.)
28

1 If Respondent is unable to submit costs for any month, she shall be required, instead, to
2 submit an explanation of why she is unable to submit the costs, and the date(s) she will be able to
3 submit the costs, including payment amount(s). Supporting documentation and evidence of why
4 the Respondent is unable to make such payment(s) must accompany this submission.

5 Respondent understands that failure to submit costs timely is a violation of probation and
6 submission of evidence demonstrating financial hardship does not preclude the Board from
7 pursuing further disciplinary action. However, Respondent understands that by providing
8 evidence and supporting documentation of financial hardship it may delay further disciplinary
9 action.

10 In addition to any other disciplinary action taken by the Board, an unrestricted license will
11 not be issued at the end of the probationary period and the optometrist license will not be
12 renewed, until such time as all probation monitoring costs have been paid. The filing of
13 bankruptcy by the Respondent shall not relieve the Respondent of her responsibility to reimburse
14 the Board for costs incurred.

15 5. FUNCTION AS AN OPTOMETRIST. Respondent shall function as an
16 optometrist for a minimum of 24 hours per week for the entire term of her probation period.

17 6. NOTICE TO EMPLOYER.

18 Respondent shall provide to the board the names, physical addresses, mailing addresses,
19 and telephone number of all employers and supervisors and shall give specific, written consent
20 that the licensee authorizes the board and the employers and supervisors to communicate
21 regarding the licensee's work status, performance and monitoring.

22 Respondent shall be required to inform her employer, and each subsequent employer during
23 the probation period, of the discipline imposed by this decision by providing her supervisor and
24 director and all subsequent supervisors and directors with a copy of the decision and order, and
25 the Statement of Issues in this matter prior to the beginning of or returning to employment or
26 within 14 days from each change in a supervisor or director.

27 The employer will then inform the Board, in writing, that she is aware of the discipline, on
28 forms to be provided to the Respondent. Respondent is responsible for contacting the Board to

1 obtain additional forms if needed. All reports completed by the employer must be submitted from
2 the employer directly to the Board.

3 7. NOTICE TO PATIENTS.

4 During the period of probation, Respondent shall post a notice in a prominent place in her
5 office that is conspicuous and readable to the public. The notice shall state the Respondent's
6 Optometrist license is on probation and shall contain the telephone number of the State Board of
7 Optometry. Respondent shall also post a notice containing this information prominently on any
8 website related to her practice of Optometry. The above-described notices shall be approved by
9 the board within 30 days of the effective date of this decision.

10 8. CHANGES OF EMPLOYMENT OR RESIDENCE.

11 Respondent shall notify the Board, and appointed probation monitor, in writing, of any and
12 all changes of employment, location, and address within 14 days of such change. This includes
13 but is not limited to applying for employment, termination or resignation from employment,
14 change in employment status, and change in supervisors, administrators or directors.

15 Respondent shall also notify her probation monitor AND the Board IN WRITING of any
16 changes of residence or mailing address within 14 days. P.O. boxes are accepted for mailing
17 purposes; however the Respondent must also provide her physical residence address as well.

18 9. COST RECOVERY.

19 Respondent shall pay to the Board a sum not to exceed the costs of the investigation and
20 prosecution of this case. That sum shall be \$3,320 and shall be paid in full directly to the Board,
21 in a Board approved payment plan, within 6 months from the end of the probation term. Cost
22 recovery will not be tolled.

23 If Respondent is unable to submit costs timely, she shall be required instead to submit an
24 explanation of why she is unable to submit these costs in part or in entirety, and the date(s) she
25 will be able to submit the costs, including payment amount(s). Supporting documentation and
26 evidence of why the Respondent is unable to make such payment(s) must accompany this
27 submission.
28

Respondent understands that failure to submit costs timely is a violation of probation and submission of evidence demonstrating financial hardship does not preclude the Board from pursuing further disciplinary action. However, Respondent understands that by providing evidence and supporting documentation of financial hardship may delay further disciplinary action.

Consideration to financial hardship will not be given should Respondent violate this term and condition, unless an unexpected AND unavoidable hardship is established from the date of this order to the date payment(s) is due. The filing of bankruptcy by the Respondent shall not relieve the Respondent of her responsibility to reimburse the Board for these costs.

10. TAKE AND PASS LICENSURE EXAMINATION(S).

(A) Respondent shall take and pass the California Laws and Regulations Examination (CLRE). Respondent shall pay the established examination fees. If respondent has not taken and passed the examination within twelve months from the effective date of this decision, respondent shall be considered to be in violation of probation.

11. COMMUNITY SERVICE.

Within 30 days of the effective date of this decision, Respondent shall submit to the Board, for its prior approval, a community service program in which Respondent provides free professional services on a regular basis to a community or charitable facility or agency, amounting to a minimum of ten (10) hours per month of probation. Such services shall begin no later than 15 days after respondent is notified of the approved program.///

12. VALID LICENSE STATUS.

Respondent shall maintain a current, active and valid license for the length of the probation period. Failure to pay all fees and meet CE requirements prior to her license expiration date shall constitute a violation of probation.

13. TOLLING FOR OUT-OF-STATE RESIDENCE OR PRACTICE.

Periods of residency or practice outside California, whether the periods of residency or practice are temporary or permanent, will toll the probation period but will not toll the cost recovery requirement, or the probation monitoring costs incurred. Travel out of California for

1 more than 30 days must be reported to the Board in writing prior to departure. Respondent shall
2 notify the Board, in writing, within 14 days, upon her return to California and prior to the
3 commencement of any employment where representation as an optometrist is/was provided.

4 Respondent's license shall be automatically cancelled if respondent's periods of temporary
5 or permanent residence or practice outside California total two years. However, respondent's
6 license shall not be cancelled as long as respondent is residing and practicing in another state of
7 the United States and is on active probation with the licensing authority of that state, in which
8 case the two year period shall begin on the date probation is completed or terminated in that state.

9 **14. LICENSE SURRENDER.**

10 During Respondent's term of probation, if she ceases practicing due to retirement, health
11 reasons, or is otherwise unable to satisfy the condition of probation, Respondent may surrender
12 her license to the board. The Board reserves the right to evaluate Respondent's request and
13 exercise its discretion whether to grant the request or to take any other action deemed appropriate
14 and reasonable under the circumstances, without further hearing. Upon formal acceptance of the
15 tendered license and wall certificate, Respondent will no longer be subject to the conditions of
16 probation. All costs incurred (i.e., Cost Recovery and Probation Monitoring) are due upon
17 reinstatement.

18 Surrender of Respondent's license shall be considered a disciplinary action and shall
19 become a part of Respondent's license history with the Board.

20 **15. VIOLATION OF PROBATION.**

21 If Respondent violates any term of the probation in any respect, the Board, after giving
22 Respondent notice and the opportunity to be heard, may revoke probation and carry out the
23 disciplinary order that was stayed. If an accusation or a petition to revoke probation is filed
24 against Respondent during probation, the Board shall have continuing jurisdiction and the period
25 of probation shall be extended until the matter is final. No petition for modification of penalty
26 shall be considered while there is an accusation or petition to revoke probation or other penalty
27 pending against Respondent.

28 ///

1 16. COMPLETION OF PROBATION.

2 Upon successful completion of probation, Respondent's license shall be fully restored.

3 17. ABSTENTION FROM USE OF MOOD ALTERING SUBSTANCES.

4 Respondent shall abstain completely from the personal use or possession of alcohol, any
5 and all other mood altering drugs, substances and their associated paraphernalia, except when the
6 drugs are lawfully prescribed by a licensed practitioner as part of a documented medical
7 treatment.

8 Respondent shall execute a release authorizing the release of pharmacy and prescribing
9 records as well as physical and mental health medical records. Respondent shall also provide
10 information of treating physicians, counselors or any other treating professional as requested by
11 the Board.

12 Respondent shall ensure that she is not in the presence of or in the same physical location as
13 individuals, who are using illegal substances, even if Respondent is not personally ingesting the
14 drug(s). Any positive result that registers over the established laboratory cutoff level shall
15 constitute a violation of probation and shall result in the filing of an accusation and/or a petition
16 to revoke probation against Respondent's optometrist license. Respondent also understands and
17 agrees that any positive result that registers over the established laboratory cutoff level shall be
18 reported to each of Respondent's employers.

19 18. BIOLOGICAL FLUID TESTING.

20 Respondent, at his/her expense, shall immediately participate in random testing, including
21 but not limited to biological fluid testing (i.e. urine, blood, saliva), breathalyzer, hair follicle
22 testing, or any drug screening program approved by the Board. The length of time shall be for the
23 entire probation period. The Respondent will be randomly drug tested at the frequency outlined
24 by the Department of Consumer Affairs Uniform Standards for Substance Abuse #4.

25 Respondent shall be required to make daily contact to determine if he/she is required to
26 submit a specimen for testing, including weekends and holidays, at a lab approved by the Board.
27 Board representatives may also appear unannounced, at any time to collect a specimen. All
28 collections will be observed.

1 At all times Respondent shall fully cooperate with the Board or any of its representatives,
2 and shall, when directed, appear for testing as requested and submit to such tests and samples for
3 the detection of alcohol, narcotics, hypnotic, dangerous drugs or other controlled substances. All
4 alternative testing sites, due to vacation or travel outside of California, must be approved by the
5 Board prior to the vacation or travel.

6 If Respondent is unable to provide a specimen in a reasonable amount of time from the
7 request, Respondent understands that, while at the work site, any Board representative may
8 request from the supervisor, manager or director on duty to observe Respondent in a manner that
9 does not interrupt or jeopardize patient care in any manner until such time Respondent provides a
10 specimen acceptable to the Board.

11 If Respondent tests positive for a prohibited substance per his/her probationary order,
12 Respondent's license shall be automatically suspended. The Board will contact the Respondent
13 and his/her employers, supervisors, managers, work site monitors, and contractors and notify
14 them that Respondent's license has been suspended as a result of a positive test. Thereafter, the
15 Board may contact the specimen collector, laboratory, Respondent, treating physician, treatment
16 provider and support group facilitators to determine whether the positive test is in fact evidence of
17 prohibited use. If the Board determines the positive test is not evidence of prohibited use, the
18 Board shall immediately reactivate the license and inform the Respondent and others previously
19 contacted, that the license is no longer suspended.

20 Failure to submit to testing on the day requested, or appear as requested by any Board
21 representative for testing, as directed, shall constitute a violation of probation and shall result in
22 the filing of an accusation and/or a petition to revoke probation against Respondent's optometrist
23 license.

24 19. PARTICIPATE IN GROUP SUPPORT MEETINGS .

25 Respondent shall attend at least one (1), but no more than five (5), 12-step recovery
26 meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) during each
27 week of probation, as approved or directed by the Board. Respondent shall submit dated and
28

1 signed documentation confirming such attendance to the Board during the entire period of
2 probation.

3 20. ALCOHOL AND DRUG TREATMENT.

4 Respondent, at her expense shall successfully complete a treatment regime at a recognized
5 and established program in California of at least six months duration and approved by the Board.
6 The treatment program shall be successfully completed within the first nine months of probation.
7 The program director, psychiatrist or psychologist shall confirm that Respondent has complied
8 with the requirement of this decision and shall notify the Board immediately if he/she believes the
9 Respondent cannot safely practice. Respondent shall execute a release authorizing divulgence of
10 this information to the Board.

11 Respondent shall inform the program director, psychiatrist or psychologist of her
12 probationary status with the Board, and shall cause that individual to submit monthly reports to
13 the Board providing information concerning Respondent's progress and prognosis. Such reports
14 shall include results of biological fluid testing.

15 Positive results shall be reported immediately to the Board and shall be used in
16 administrative discipline.

17 21. CONTINUING EDUCATION.

18 Within 90 days of the effective date of this Decision, Respondent shall submit to the Board
19 for its prior approval an educational program or course to be in areas of drug and alcohol
20 addiction. The education program or course(s) shall consist of a minimum of four (4) hours.

21 This program or course shall be in addition to the Continuing Optometric Education
22 requirements for renewal, and shall be obtained with all costs being paid by the Respondent.
23 Following completion of each course, the board or its designee may administer an examination to
24 test Respondent's knowledge of the course. Respondent shall provide written proof of attendance
25 in such course or courses approved by the board.

26 22. PSYCHOTHERAPY OR COUNSELING PROGRAM.

27 Within 60 days of the effective date of this decision, respondent shall submit to the Board
28 for its prior approval the name and qualifications of a psychotherapist of respondent's choice.

1 Upon approval, respondent shall undergo and continue treatment, at respondent's cost, until such
2 time as the Board releases his/her from this requirement and only upon the recommendation of
3 the counselor. Respondent shall have the treating psychotherapist submit quarterly status reports
4 to the Board. The Board may require respondent to undergo psychiatric or psychological
5 evaluations by a Board-appointed psychiatrist or psychologist.

6 ACCEPTANCE

7 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
8 discussed it with my attorney, Michael Krout, Esq.. I understand the stipulation and the effect it
9 will have on my Optometrist License. I enter into this Stipulated Settlement and Disciplinary
10 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
11 of the State Board of Optometry.

12
13 DATED: 11 July 2011 Susanne Wilch Anderson AD
14 SUSANNE WILCH KROUT, AKA SUSANNE
15 WILCH ANDERSON (Susanne Wilch Krout)
Respondent

16
17 I have read and fully discussed with Respondent Susanne Wilch Krout, aka Susanne Wilch
18 Anderson the terms and conditions and other matters contained in the above Stipulated Settlement
19 and Disciplinary Order. I approve its form and content.

20
21 DATED: 11 July 2011 Michael Krout
22 Michael Krout, Esq.
23 Attorney for Respondent
24
25
26
27
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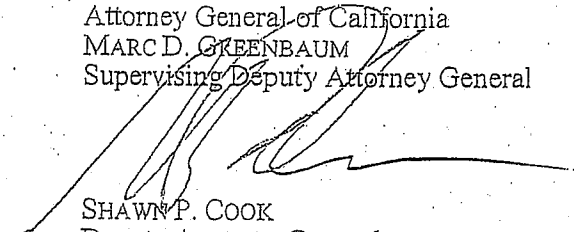
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order are hereby respectfully submitted for consideration by the State Board of Optometry of the Department of Consumer Affairs.

Dated: April 18, 2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General



SHAWN P. COOK
Deputy Attorney General
Attorneys for Complainant

LA2010503553
Stipulation.rtf

Exhibit A

Accusation No. 2006-121

1 EDMUND G. BROWN JR.
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2 MARC D. GREENBAUM
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13 **SUSANNE WILCH KROUT, AKA**
14 **SUSANNE WILCH ANDERSON**
15 **18649 Via Princessa**
Santa Clarita, CA 91387
Optometrist License No. 06613

A C C U S A T I O N

Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Mona Maggio (Complainant) brings this Accusation solely in her official capacity as
20 the Executive Officer of the State Board of Optometry, Department of Consumer Affairs.

21 2. On or about September 5, 1979, the State Board of Optometry issued Optometrist
22 License Number 06613 to Susanne Wilch Krout, aka Susanne Wilch Anderson (Respondent).
23 The Optometrist License was in full force and effect at all times relevant to the charges brought
24 herein and will expire on September 30, 2011, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the State Board of Optometry (Board), Department
27 of Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code unless otherwise indicated.

1 4. Section 150 of the Code states: "The department is under the control of a civil
2 executive officer who is known as the Director of Consumer Affairs."

3 5. Section 118, subdivision (b), of the Code provides that the suspension /expiration/
4 surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to
5 proceed with a disciplinary action during the period within which the license may be renewed,
6 restored, reissued or reinstated.

7 6. Section 22 of the Code states:

8 "(a) 'Board' as used in any provisions of this Code, refers to the board in which the
9 administration of the provision is vested, and unless otherwise expressly provided, shall include
10 'bureau,' 'commission,' 'committee,' 'department,' 'division,' 'examining committee,' 'program,' and
11 'agency.'

12 "(b) Whenever the regulatory program of a board that is subject to review by the Joint
13 Committee on Boards, Commissions, and Consumer Protection, as provided for in Division 1.2
14 (commencing with Section 473), is taken over by the department, that program shall be
15 designated as a 'bureau.'"

16 7. Section 480 states, in pertinent part:

17 "(a) A board may deny a license regulated by this code on the grounds that the applicant has
18 one of the following:

19 "(1) Been convicted of a crime. A conviction within the meaning of this section
20 means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
21 Any action which a board is permitted to take following the establishment of a
22 conviction may be taken when the time for appeal has elapsed, or the judgment of
23 conviction has been affirmed on appeal, or when an order granting probation is made
24 suspending the imposition of sentence, irrespective of a subsequent order under the
25 provisions of Section 1203.4 of the Penal Code.

26 "(2) Done any act involving dishonesty, fraud or deceit with the intent to
27 substantially benefit himself or another, or substantially injure another; or
28

1 "(3)(A) Done any act which if done by a licentiate of the business or profession
2 in question, would be grounds for suspension or revocation of license.

3 (B) "The board may deny a license pursuant to this subdivision only if the
4 crime or act is substantially related to the qualifications, functions or duties of the
5 business or profession for which application is made.

6
7 "(c) A board may deny a license regulated by this code on the ground that the applicant
8 knowingly made a false statement of fact required to be revealed in the application for such
9 license."

10 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
11 revoke a license on the ground that the licensee has been convicted of a crime substantially
12 related to the qualifications, functions, or duties of the business or profession for which the
13 license was issued.

14 9. Section 493 of the Code states:

15 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
16 the department pursuant to law to deny an application for a license or to suspend or revoke a
17 license or otherwise take disciplinary action against a person who holds a license, upon the
18 ground that the applicant or the licensee has been convicted of a crime substantially related to the
19 qualifications, functions, and duties of the licensee in question, the record of conviction of the
20 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
21 and the board may inquire into the circumstances surrounding the commission of the crime in
22 order to fix the degree of discipline or to determine if the conviction is substantially related to the
23 qualifications, functions, and duties of the licensee in question.

24 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
25 'registration.'"

26 10. Section 3090 of the Code states:

27 "Except as otherwise provided by law, the board may take action against all persons guilty
28 of violating this chapter or any of the regulations adopted by the board. The board shall enforce

1 and administer this article as to license holders, and the board shall have all the powers granted in
2 this chapter for these purposes, including, but not limited to, investigating complaints from the
3 public, other licensees, health care facilities, other licensing agencies, or any other source
4 suggesting that an optometrist may be guilty of violating this chapter or any of the regulations
5 adopted by the board."

6 11. Section 3110 of the Code states:

7 "The board may take action against any licensee who is charged with unprofessional
8 conduct, and may deny an application for a license if the applicant has committed unprofessional
9 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
10 limited to, the following:

11 "(a) Violating or attempting to violate, directly or indirectly assisting in or abetting the
12 violation of, or conspiring to violate any provision of this chapter or any of the rules and
13 regulations adopted by the board pursuant to this chapter.

14 * * *

15 (c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
16 omissions.

17 "(f) Any action or conduct that would have warranted the denial of a license.

18 * * *

19 "(k) Conviction of a felony or of any offense substantially related to the qualifications,
20 functions, and duties of an optometrist, in which event the record of the conviction shall be
21 conclusive evidence thereof.

22 "(l) Administering to himself or herself any controlled substance or using any of the
23 dangerous drugs specified in Section 4022, or using alcoholic beverages to the extent, or in a
24 manner, as to be dangerous or injurious to the person applying for a license or holding a license
25 under this chapter, or to any other person, or to the public, or, to the extent that the use impairs
26 the ability of the person applying for or holding a license to conduct with safety to the public the
27 practice authorized by the license, or the conviction of a misdemeanor or felony involving the
28

1 use, consumption, or self administration of any of the substances referred to in this subdivision, or
2 any combination thereof.

3 12. California Code of Regulations, title 16, section 1517 states:

4 "For the purpose of denial, suspension, or revocation of the certificate of registration of an
5 optometrist pursuant to Division 1.5 (commencing with Section 475) of the Code, a crime or act
6 shall be considered to be substantially related to the qualifications, functions, and duties of an
7 optometrist if to a substantial degree it evidences present or potential unfitness of an optometrist
8 to perform the functions authorized by his/her certificate of registration in a manner consistent
9 with the public health, safety, or welfare.

10 13. A "dangerous drug" or "dangerous device" is any drug or device that is unsafe for
11 self-use within the meaning of Code section 4022 in that it requires a prescription under federal or
12 state law.

13 14. Section 125.3 of the Code provides, in pertinent part, that the
14 Board/Registrar/Director may request the administrative law judge to direct a licensee found to
15 have committed a violation or violations of the licensing act to pay a sum not to exceed the
16 reasonable costs of the investigation and enforcement of the case.

17 15. CONTROLLED SUBSTANCES AND DANGEROUS DRUGS

18 a. "Diazepam, generic for the brand name Valium 10 mg.", a benzodiazepam derivative,
19 is a Schedule IV controlled substance as designated by Health and Safety Code section
20 11057(d)(9) and is categorized as a dangerous drug pursuant to section 4022 of the Code.

21 b. "Premarin" is a drug made up of conjugated estrogens obtained from the urine of
22 pregnant mares, and is categorized as a dangerous drug pursuant to Section 4022 of the Code.

23 FIRST CAUSE FOR DISCIPLINE

24 (Unprofessional Conduct- Use of Alcoholic Beverages or Controlled Substances to an Extent)

25 16. Respondent is subject to disciplinary action under sections 3090, 3110, subdivisions
26 (a) and (l) in that Respondent has used alcoholic beverages and/or controlled substances to the
27 extent or in a manner, as to be dangerous or injurious to her or other persons. The circumstances
28 are as follows:

1 17. On or about January 4, 2007 at 2134 hours, Respondent was arrested for suspected
2 violation of Vehicle Code sec. 23152, subd. (a)- driving under the influence of alcohol and/or
3 drugs, after she was stopped in or around San Luis Obispo by the California Highway Patrol for
4 weaving on the roadway. When Respondent exited her vehicle, she stumbled and walked with
5 an unsteady gait. Respondent's PAS results were #1 at .07 and #2 at .073. Her blood alcohol
6 result was .06 BL. Respondent admitted to the officer that she had consumed a "Bloody Mary"
7 and had taken the controlled substances Valium, Diazepam and Premarin at approximately noon
8 earlier that day.

9 18. On or about April 25, 2007, Respondent was convicted by the Superior Court of
10 California, County of San Luis Obispo, in People v. Susanne Wilch Krout, case no. M398637, on
11 her plea of nolo contendere to violation of Vehicle Code sections 23103, subd. (a) and 23103.5,
12 subd.(a) [alcohol related ("wet") reckless driving] a misdemeanor, and a prior offense under
13 Vehicle Code section 23103.5, subd. (c). for the purposes of sections 23540, 23546, 23550,
14 23560, 23566, or 23622, as specified in those sections. Respondent's imposition of her sentence
15 was suspended for 18 months, she was ordered to attend a "wet reckless" program, and submit
16 proof of completion within 180 days.

17 19. On or about January 11, 2010 at 1946 hours, Respondent was arrested for suspected
18 violation of Vehicle Code sec. 23152, subd. (a)- driving under the influence of alcohol and/or
19 drugs, and section 23152, subd. (b)- driving with a blood alcohol content of .08% or higher after
20 she was stopped in or around San Luis Obispo by the California Highway Patrol for weaving on
21 the roadway and making a wide right turn. When Respondent exited her vehicle, she staggered
22 and had trouble standing up. Respondent's PAS results were #1 at .167 and #2 at .164. Her blood
23 alcohol result was .17 BL. Respondent initially denied having consumed any alcohol, but later
24 admitted to the officer that she had drunk 2 glasses of champagne earlier that day between 4 am
25 and 6am. She denied taking any current prescriptions, though Valium was found by the officer in
26 her purse. She admitted that she was under the care of "Dr. Book", in Santa Maria.

27 20. On or about March 29, 2010, Respondent was convicted by the Superior Court of
28 California, County of San Luis Obispo, in People v. Susanne Wilch Krout, case no. M000442962,

1 on her plea of nolo contendere to violation of Vehicle Code sections 23152, subd. (b) [driving
2 with blood alcohol of .08 or greater] a misdemeanor. Respondent received a 3 year suspended
3 sentence, was sentenced to 40 days in county jail with credit for time served of 2 days, a stay of
4 execution until May 28, 2010, and ordered to attend a DDP (Drinking Driver Program) for second
5 offenders.

6 SECOND CAUSE FOR DISCIPLINE

7 (Unprofessional Conduct- Repeated Negligent Acts)

8 21. Respondent is subject to disciplinary action under sections 3090, 3110, subdivisions
9 (a) and (c) in that she committed repeated negligent acts. The facts are as alleged in the
10 preceding paragraphs 16 through 20, which are incorporated herein by reference.

11 THIRD CAUSE FOR DISCIPLINE

12 (Unprofessional Conduct- Acts or Conduct that Would Have Warranted Denial of License)

13 22. Respondent is subject to disciplinary action under sections 3090, 3110, subdivisions
14 (a) and (f) and 480, subdivision (a)(3) in that she engaged in acts or conduct that would have
15 warranted denial of her license. The facts are as alleged in the preceding paragraphs 16 through
16 20, which are incorporated herein by reference.

17 FOURTH CAUSE FOR DISCIPLINE

18 (Unprofessional Conduct- Substantially Related Convictions)

19 23. Respondent is subject to disciplinary action under sections 3090, 3110, subdivisions
20 (a) and (k) and 490, in conjunction with California Code of Regulations, title 16, section 1517,
21 in that she engaged in acts or conduct that would have warranted denial of her license. The facts
22 are as alleged in the preceding paragraphs 16 through 20, which are incorporated herein by
23 reference.


24 PRAYER

25 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
26 and that following the hearing, the State Board of Optometry issue a decision:

27 1. Revoking or suspending Optometrist License Number 06613, issued to Susanne
28 Wilch Krout, aka Susanne Wilch Anderson;

- 1 2. Ordering Susanne Wilch Krout to pay the State Board of Optometry the reasonable
2 costs of the investigation and enforcement of this case, pursuant to Business and Professions
3 Code section 125.3;
4 3. Taking such other and further action as deemed necessary and proper.

5 DATED: Nov. 9, 2010


MONA MAGGIO
Executive Officer
State Board of Optometry
Department of Consumer Affairs
State of California
Complainant

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